

STATE OF RHODE ISLAND

COMMISSIONER OF EDUCATION

STUDENT A. DOE

v.

WILLIAM M. DAVIES, JR. CAREER
AND TECHNICAL HIGH SCHOOL

Decision

Held: Senior who did not complete diploma requirements may not participate in the graduation ceremony.

Date: June 17, 2013

Introduction

Student Doe is appealing the decision of the William M. Davies, Jr. Career and Technical High School to not allow her to participate in the 2013 graduation ceremony.¹

Background

Student Doe is a senior at the Davies School. She is diagnosed with mood disorder and oppositional defiance disorder. She has had an individualized education program (IEP) throughout her four years at Davies. Her IEP provides for a placement in a “general education class with special education consultation, supplementary aides and services or part time services in a special class.” [Joint Exhibits 1 and 2].² Doe attends inclusion Math, History and English classes with a special-education teacher. Her IEP provides counseling services to “enhance [her] social/emotional needs, in order to meet high school expectations and requirements.” The IEP developed for Doe in March 2012 states the following:

[Doe] has made such a wonderful turn around behaviorally and academically. She is able to display appropriate behavior to staff and peers, she asks for help independently and she is such a joy to have in class. She hands in majority of her assignments on time and her organizational has improved dramatically. [Doe] comes to class prepared, is ready to learn, and she is proud of her work.

It is evident that [Doe] has the ability and motivation to succeed in all of her academic classes and technical program. She is able to complete classwork, homework, projects, and common tasks that are assigned appropriately. She performs very well on the majority of the assessments that are given. [Joint Exhibit 2].

Doe’s IEPs note her continued struggle with “word problems that apply algebraic concepts and more complex linear equations.” A functional behavioral assessment of Doe was completed in August 2010. It addressed Doe’s disruptive, non-compliant behavior. Doe’s December 2010 educational evaluation states that her “fluency with academic tasks is within the high average range of others at her age level. Her academic skills and her ability to apply those skills are both within the average range . . . [she] could benefit from continued support in math as she struggles with basic concepts.” [Petitioner’s Exhibit 8].

¹ The appeal was filed on April 12, 2013. A hearing was held on April 14, 2013. The graduation is scheduled for April 18, 2013.

² All material quoted in this decision is presented as it appears in the documentation offered into evidence.

Doe received passing grades in all her classes for the first quarter of the 2012-13 school year. Her grades in Math, U.S. History and Consumer Economics plummeted in the second quarter. On January 2, 2013, a special-education teacher/school counselor emailed Doe's mother. She stated:

I am just writing to you because I am very concerned about [Doe]. She seems to have no motivation to complete any of her work . . . I have also talked with a few of her teachers and no work has been handed in since our last meeting in guidance. I have spoken with [Doe] about this and she said she has no motivation but maybe you can talk to her at home. [Petitioner's Exhibit 4].

The teacher/counselor emailed Doe's mother again on January 22, 2013:

I just wanted to let you know that [Doe] missed her English mid-term today because she was absent from school. She also has NOT taken her Consumer Economics Midterm or her US History Mid-term due to being late or absent from school on the days they were given. Due to Q3 beginning tomorrow [Doe] will have to talk with her English, history, and consumer economics teachers to set these make-up exams up which will have to happen after school. If [Doe] chooses not to do this then she will be awarded zeros for those mid-term grades. [*Ibid.*].

The teacher/counselor sent another email to Doe's mother on January 24th:

I am emailing you with a few concerns that I have with [Doe]. I have emailed you several times within the past month but have not heard back from you so I hope you are receiving them. . . Doe failed health careers theory, math, and consumer economics for the quarter. She also received a "0" on her history, english, and consumer economics mid-terms because she DID NOT take them. I did speak with [Doe's Consumer Economic teacher] yesterday and he stated that she did go and take his mid-term yesterday so I am just waiting for him to put the grade in. I received an email from [Doe's special-education teacher in English] and [Doe] made arrangement's to stay after school yesterday to take her English exam and she never showed. [Doe] also admitted that she only completed 3 paragraphs for the take home portion of the mid-term . . . [Doe] stated she was going to go home and finish it and then she never did. . I am going to put in for a meeting . [Doe] seems very disinterested lately and it appears all she wants to do is socialize. She is very happy but her socializing it effecting her work completion. I hope to hear from you. [*Ibid.*].

An IEP review was held on January 25th. Doe's declining grades and her need to stay after school for make-up work were discussed. The parties also discussed moving Doe to an

academic support class if her math grade did not improve.

On January 30th, the teacher/counselor emailed Doe's mother that "[Doe] did not come again to make up her history exam. This is the third time (1/22, 1/23, 1/30) she has failed to make up the zero." [Respondent's Exhibit 3]. A progress-review meeting was held on February 28th. On March 11, the teacher/counselor emailed Doe's mother to ask if Doe had any additional make-up work to submit for her credit-recovery class. On March 25th, she emailed again:

. . . [Doe] is still not passing her classes. She is currently failing 5 of them. She did really good 2 weeks ago making up her missed work, however it seems that once the make-up work was completed, she stopped completing all of her current work . . . if [Doe] claims that she has completed the work then please contact [the guidance counselor] to address the academic concerns you may have. [Petitioner' Exhibit 4].

Another progress-review meeting was held on April 3rd. The meeting summary states as follows:

Purpose of the meeting was to discuss [Doe's} academic grades . . . [A guidance counselor] brought a grade report of [Doe's] current grades and the projected grades she would need to achieve from now to the end of the school year in order to pass for the year. (See attached). Given the current grades, [Doe] should be able to pass all of her classes for the year . . . Academically, [Doe] is not putting in the effort needed in order to be successful. She owes multiple assignments . . . All of [Doe's] Inclusion teachers have regularly checked in with her in the RAC room to make sure she has the support needed to complete these assignments. In US History [Doe] had been given four opportunities to take her mid-term exam and again, refused to take it, therefore getting a zero . . . In Math, [Doe] has gotten differentiated notes from [the teacher] to help her grasp the material and she said that these notes were helpful and that she could do the assignments due with them. In math class, [Doe] often socializes instead of doing her classwork . . . [Respondent's Exhibit 6].

According to Doe's math teacher,

While [Doe] was successful during quarter 1, she appeared to lose interest for the remainder of the year. She failed 2nd quarter and failed to take advantage of the Academic Recovery Program offered after school, where she could earn a passing grade. She did participate for the 3rd quarter but did not complete the required work and could not show proficiency.

I was available on most Tuesdays and Thursdays for help. [Doe] did show up three or four times. I found [Doe] to be very confrontational,

especially during the second part of the year. For example, when told to put her electronic device away, she would refuse. This happened on several occasions. She needed constant prodding to participate in class and complete assigned practice. She spent a lot of time socializing with other students when she should have been working. [Respondent's Exhibit 4].

Additional progress-review meetings were held on May 21st and May 31st. Believing that her outside counseling was sufficient, Doe did not participate in the school counseling set forth in her IEP.

Doe received a 59 on her final exam in U.S. History. She failed U.S. History for the year with a 68 final average. The zero on her mid-term U.S. History exam counted for 10% of the final grade. Doe also failed Math (62 final average) and Consumer Economics (51 final average) for the year. She needed to pass Math and U.S. History to meet Davies' graduation requirements. A passing grade is 70. Only students who have completed requirements and earned a diploma are allowed to participate in the Davies' graduation ceremony.

Positions of the Parties

Petitioner acknowledges that she is not entitled to a diploma because she has not met the Davies School's graduation requirements. She does ask, however, that she be allowed to participate in the graduation ceremony because she tried her best to pass her classes and did not receive any help from the School despite her requests to be switched to a different Math class and to be moved into an academic support class. According to Doe, her math teacher was not a good teacher and her inclusion teachers and teacher assistants were not helpful. Doe tried to get help in math, but was put off. Meanwhile, another student in her shop block was switched from the math class to academic support. She admits she deserved the zero on the History mid-term, but she was passing History until the final exam which she failed because she was so distracted by her problems in Math. She claims it is not fair to prevent her from walking in the graduation ceremony.

The Davies School contends that Doe's IEP was properly developed and implemented. Teachers and counselors tried to modify Doe's negative behavior, but Doe did not cooperate. Doe is capable of achieving passing grades, but she did not put forth a consistent effort. She was warned of the consequences of her non-compliant behavior, but did not take advantage of the make-up work and credit-recovery opportunities that were extended. Doe now must live with

the consequences of her decisions. Davies acted in good faith, its non-participation policy is not arbitrary or discriminatory, and the grades awarded to Doe are entitled to deference by a reviewing body.

Discussion

In *Student K.E. Doe v. North Kingstown School Committee*,³ we stated the following:

In Rhode Island, some school committees¹ allow a senior who has not yet met graduation requirements to participate in graduation exercises. Other Rhode Island school committees have a policy of not allowing a student who is ineligible to graduate to attend the ceremony. The Commissioner has held that either of these policies, if consistently applied, is allowable. See *Student W.L. Doe v. Lincoln School Committee*, June 10, 2005 decision of the Commissioner.

¹ At this point, based on the appeals that have been presented to the Commissioner on the issue of participation in graduation ceremonies, we would suspect that most, if not all, districts in our state require students to be eligible for the diploma in order to participate in graduation ceremonies.

Petitioner concedes that she has not met graduation requirements. She does not assert that the Davies non-participation policy is being applied inconsistently. Instead, she claims that, despite her behavioral difficulties, she tried her best in Math and was denied supports that were necessary. The evidence in this case does not show that Doe's rights as a person with a disability were violated or that the Davies School was responsible for her not passing two required courses. In light of the facts of this case as related above, we question whether Doe gave her best effort in Math. We also cannot avoid the fact that she failed History as well, largely because Doe rejected three or four opportunities to re-take the mid-term exam. We regret the way things turned out for Doe in light of her present disappointment and the dedicated effort of her mother to come to her aid. But, as we said in the *K.E. Doe* case, "[t]here has been no basis established in this record on which to require, or justify, an exception to the School Committee's graduation policy." As in the *K.E. Doe* case, we encourage Doe to complete the coursework that is required for her diploma and that she move forward with a clearer and firmer resolve to achieve her aspirations and goals.

³ Decision of June 11, 2009, p. 3.

Conclusion

Doe's request to participate in the Davies School's graduation ceremony without having completed the School's requirements for a diploma is denied.

Paul E. Pontarelli
Hearing Officer

Approved:

Deborah A. Gist
Commissioner of Education

Date: June 17, 2013